BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

RONALD E. LEWIS)
Claimant VS.))) Docket No. 100 004
CESSNA AIRCRAFT COMPANY Respondent AND) Docket No. 199,994
AETNA CASUALTY & SURETY Insurance Carrier	

<u>ORDER</u>

Respondent appeals from a Preliminary Hearing Order entered by Administrative Law Judge John D. Clark. The Order dated May 9, 1995 grants claimant's request for temporary total disability and medical benefits.

ISSUES

On appeal, the respondent urges the Appeals Board to find the claimant has not sustained his burden of establishing that he suffered an injury arising out of and in the course of his employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

- (1) The issue raised by respondent on appeal is one subject to review on appeal from a preliminary order. See K.S.A. 44-534a.
- (2) The Appeals Board finds that claimant has sustained his burden of proving accidental injury arising out of and in the course of his employment and the Order by the Administrative Law Judge should be affirmed.

Claimant testified that on March 1, 1995 he worked bent over a table for several hours cutting glass and began having a tightness in his low back after he got off work that evening. He testified that he was not able to work on Thursday, March 2, or Friday, March 3. Claimant further testified that he called in and talked with Mike Harrow on those days and advised him he thought he had pulled something in his back at work. On March 3, he called in again and advised that he needed to be on sick leave.

IT IS SO ORDERED.

Respondent asserts that claimant has given a history of injury moving a box for his mother on the next Saturday. Claimant testifies that he did pick up a box of dishes, but did not move it far. He did not attribute any additional injury or pain to this incident. From claimant's testimony, which the Administrative Law Judge had the opportunity to observe, the Appeals Board finds claimant has sustained his burden of showing that he suffered an accidental injury arising out of and in the course of his employment.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Order of Administrative Law Judge John D. Clark dated May 9, 1995 should be, and the same is hereby, affirmed.

Dated this day of August, 1995.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: Dale V. Slape, Wichita, Kansas Edward D. Heath, Jr., Wichita, Kansas John D. Clark, Administrative Law Judge Philip S. Harness, Director